

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CAROLYN JOYCE O'LEARY,

Plaintiff,

v.

Case No. 17-C-1774

HUMANA INSURANCE COMPANY and
HUMANA INC.,

Defendants.

ORDER

Plaintiff Carolyn J. O'Leary, individually and on behalf of all others similarly situated, commenced this action under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.*, against Defendants Humana Insurance Company (HIC) and Humana Inc. on December 20, 2017. On November 30, 2020, the Court partially granted Plaintiff's motion for sanctions. As part of that order, the Court adopted Defendants' proposal that, to determine if unaccepted offers of extra compensation were made to Plaintiffs, Defendants would issue one agreed-upon interrogatory that would ask (1) if a plaintiff ever received an offer of extra compensation for performing work at particular times or for particular lengths of time, (2) approximately how many offers were made, and (3) whether the offers were made before, after, or both before and after December 20, 2014. Dkt. No. 247 at 10–11.

Plaintiff sought clarification on the Court's November 30, 2020 decision at the December 2020 hearing and asserted that the interrogatory is unduly burdensome and inappropriate as a sanction against Defendants as the burden falls on Plaintiff. Having considered the issue further, the Court is in agreement, and that portion of the order is vacated. Plaintiff has expressed an intent

to offer representative testimony in support of her claim that the employees were offered additional compensation for additional work. The question of whether such testimony is admissible is a matter reserved for pretrial proceedings.

SO ORDERED at Green Bay, Wisconsin this 4th day of January, 2021.

s/ William C. Griesbach
William C. Griesbach
United States District Judge